

EXHIBIT “1”

EXHIBIT “1”

CODE 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Andrea McNulty

Plaintiff(s),

vs.

Case No. CV10 02059

Harveys Tahoe Management Company, Inc., et al.

Dept. No. 8

Defendant(s).

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is: Tortious Discharge, Public Policy Tort, Intentional Infliction of Emotional Distress

1. If you intend to defend this lawsuit, you must do the following within 20 days after service of this summons, exclusive of the day of service:

- a. File with the Clerk of the Court, whose address is shown below, a formal written answer to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
- b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this _____ day of NOV 04 2010, 20____

Issued on behalf of Plaintiff(s):

HOWARD W. CONYERS
CLERK OF THE COURT

Name: Calvin, R.X. Dunlap, Esq. & Monique Laxalt, Esq.

By: T.P. Bledsoe

Address: 537 Ralston Street

Reno, Nevada 89503

Deputy Clerk
Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Phone Number: 775 323-7790

AFFIDAVIT OF PERSONAL SERVICE

(To be filled out and signed by the person who served the Defendant or Respondent)

STATE OF _____)

COUNTY OF _____)

I, _____, being first duly sworn, depose and say:
(Name of person who completed service)

1. That I am not a party to this action and I am over 18 years of age:

2. That I personally served a copy of the Summons, the Complaint for Divorce, and the
following documents: _____

upon _____, at the following
(Name of Defendant or Respondent who was served)

location: _____

on the _____ day of _____, 20____.
(Month) (Year)

(Signature of person who completed service)

Subscribed and Sworn to before me this

_____ day of _____, 20____.

NOTARY PUBLIC

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SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

SUMMONS

(Title of Document)

filed in case number: CV10 02059



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: _____

(Signature)

(Print Name)

(Attorney for)

\$1425

Calvin R. X. Dunlap, Esq.
Nevada State Bar #2111
Monique Laxalt, Esq.
Nevada State Bar #1969
P. O. Box 3689, Reno, Nevada 89505
537 Ralston St., Reno, Nevada 89503
775-323-7790
Attorneys for Plaintiff

FILED

2010 JUL -8 PM 3:08

HOWARD W. CONYERS

BY D. Jaramilla
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

Andrea McNulty,

Plaintiff,

Case No.

Dept. No.:

CV10 02059

2

vs.

HARVEYS TAHOE MANAGEMENT
COMPANY, INC., a Nevada Corporation;
HARRAH'S ENTERTAINMENT, INC., a
Delaware Corporation; HARRAH'S
OPERATING COMPANY, INC., a Delaware
Corporation; DOES I-XXX, and
ABC CORPORATIONS A-Z;

Defendants.

COMPLAINT

COMES NOW, the Plaintiff in the above entitled matter, by and through her
undersigned attorneys, and alleges the facts and legal claims set forth below.

537 RALSTON STREET
POST OFFICE BOX 3689
RENO, NEVADA 89505
TELEPHONE (775) 323-7790 • FAX (775) 323-5454

JURISDICTION

THE PARTIES AND THEIR AGENTS

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4 1. The parties have caused events to occur in Nevada from which these
5 claims arise.

6 2. Plaintiff, Andrea McNulty was, and at times relevant hereto, was and is a
7 resident of the State of Nevada.

8 3. Defendant Harveys Tahoe Management Company, Inc. is a Nevada
9 corporation. At all times relevant hereto Harvey's Tahoe Management Company, Inc. was
10 licensed to do business, and was doing business, in the State of Nevada, existing and doing
11 business as a hotel and gaming establishment. Harvey's Lake Tahoe Management
12 Company, Inc. owns, operates and manages Harvey's Lake Tahoe located at 18 Highway
13 50, Stateline, NV 89449. At all times relevant Harvey's Tahoe Management Company, Inc.
14 was and is subject to laws of the State of Nevada.
15

16 4. Defendant Harrah's Entertainment, Inc. is a foreign corporation,
17 incorporated in the State of Delaware, licensed to do business, and doing business, in the
18 State of Nevada, existing and doing business as a hotel and gaming establishment. Harrah's
19 Entertainment, Inc. is the world's largest provider of branded casino entertainment through
20 operating subsidiaries. Harrah's Entertainment, Inc. has business premises located on
21 Highway 50, Stateline, Nevada and at all times relevant was and is a business subject to the
22 laws of the State of Nevada
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25 5. Defendant Harrah's Operating Company, Inc. is a foreign corporation,
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1 incorporated in the State of Delaware, licensed to do business, and doing business, in the
2 State of Nevada, existing and doing business as a hotel and gaming establishment. Harrah's
3 Operating Company, Inc. is the Operating Company of Harrah's Entertainment Inc. and as
4 such is the operating company of all material operating subsidiaries including but not
5 limited to Defendant Harrah's South Shore Corporation. Harrah's Operating Company, Inc.
6 has business premises located on Highway 50, Stateline, Nevada and at all times relevant
7 was and is a business subject to the laws of the State of Nevada.
8

9
10 6. Plaintiff does not know the true names or capacities of the defendants sued
11 herein as DOES 1 through 20; therefore, Plaintiff sues said defendants by such fictitious
12 names, and prays leave that when the true names of said defendants are ascertained, they
13 may be inserted with appropriate allegations. Plaintiff is informed and believes and, upon
14 such information and belief, alleges that each of the defendants designated herein by such
15 fictitious names is responsible in some manner for the events and happenings hereinafter
16 referred to and that such conduct of defendants caused injury and damages proximately
17 thereby to Plaintiff. Upon learning the true and identities of DOES 1 through 20, Plaintiff
18 will seek leave of court to amend this Complaint.
19

20 7. Plaintiff does not know the true names or capacities of the defendants sued
21 herein as ABC CORPORATIONS A-Z; therefore, Plaintiff sues said defendants by such
22 fictitious names, and prays leave that when the true names of said defendants are
23 ascertained, they may be inserted with appropriate allegations. Plaintiff is informed and
24 believes, and upon such information and belief, alleges that each of the defendants
25 designated herein by such fictitious names is responsible in some manner for the events and
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1 happenings hereinafter referred to and that such conduct of defendants caused injury and
2 damages proximately thereby to plaintiff. Upon learning the true names and identities of
3 ABC CORPORATIONS A-Z, Plaintiff will seek leave of court to amend this Complaint.
4

5 8. At all times relevant herein, Defendants, and each of them, were the agents
6 and employees of each of the remaining defendants, and were at all times acting within the
7 course and scope of said agency and employment, and each defendant has ratified and
8 approved the acts of the other. Therefore, each defendant is liable for the acts of each
9 remaining defendants.
10

11 9. The corporate defendants, and each of them, were acting by and through
12 their authorized employees, agents, and/or representatives, who were acting within the
13 scope and course of said capacity, and whose conduct was ratified by each of said
14 defendants.
15

16 10. Plaintiff, Andrea McNulty was, and at times relevant hereto, a resident of
17 the State of Nevada.
18

19 11. The parties have caused events to occur in Nevada from which these claims
20 arise.
21

22 12. The acts of Defendants' agents were committed within the course and scope
23 of their employment and therefore they are individually liable and their employer is
24 vicariously liable under the Doctrine of Respondeat Superior.
25

26 13. The Harrahs Defendants (hereinafter sometimes "Harrahs"), at all relevant
27 time were and are gaming and hotel companies that employ John Koster, Guy Hyder,
28 David Monroe, and other agents.

1 14. John Koster (hereinafter sometimes "Koster") was, on information and
2 belief, at all times relevant, President of Harrah's Lake Tahoe and was employed by
3 Defendants.
4

5 15. Guy Hyder (hereinafter sometimes Hyder) at some times relevant, was
6 Chief of Security at Harrah's Lake Tahoe and is now believed to be employed in Reno,
7 Nevada by Defendants.
8

9 16. Dave Monroe (hereinafter sometimes Monroe) at some times relevant, was
10 and is Vice President of Food and Hotel Operations at Harrah's Lake Tahoe.
11

12 17. Debbie Neall (hereinafter sometimes Neall) at all times relevant hereto was
13 an Employee Relations Manager for Harrah's Lake Tahoe.
14

15 18. On information and belief Plaintiff alleges that Defendant Neall was and is a
16 resident of Douglas County, Nevada.
17

18 19. Mark Masters (hereinafter sometimes Masters) at all times relevant hereto,
19 was and is employed at Harrah's Tahoe in security and is a close associate of Hyder.
20

21 20. Stacy Dingman (hereinafter sometimes Dingman) was formerly and at some
22 times relevant hereto was Director of Hotels at Harrah's and was and is currently
23 employed by Lakeside Inn and Casino in Nevada.
24

25 21. Bryan Cascuscelli (hereinafter sometimes Cascuscelli) was and is, at all
26 times relevant hereto, Harrah's Tahoe's Director of Player Development.
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FACTS

22. In or about March of 2003, Plaintiff McNulty applied for a position in the Hotel at Harrah's Lake Tahoe, was offered a job, accepted the offer, and relocated to Lake Tahoe, State of Nevada.

23. Plaintiff began her employment with Harrah's in about March of 2003 as a Hotel Shift Manager, at the Front Desk.

24. Plaintiff was promoted to the Reflection's Spa Manager in or about July, 2004.

25. After approximately six months, Plaintiff became the VIP Shift Manager.

26. Approximately six months later, she was promoted by the Vice President of Hotel Operations to the VIP Services Manager.

27. Plaintiff was responsible for setting the direction of VIP departments, budgeting, and capital project submissions.

28. Plaintiff was also appointed to serve on the project team that oversaw the building of the Summit Suite Penthouses, a 30 million dollar project.

29. Plaintiff was, also, charged with the responsibility of building, and training the Butler staff.

30. Plaintiff eventually was recognized by Harrah's as the "Leader of the Quarter" for the Tahoe properties.

31. After completion of the capital projects, with success and getting them off the ground, Plaintiff sought to transition into the Casino Marketing department.

1
2 32. Plaintiff applied for the position of an Executive Casino Host, was offered
3 the position in February, 2008 and began reporting to the Vice President of Casino
4 Marketing, Jennifer Trinkaus.

5 33. In July of 2008 the NBC American Century Celebrity Golf Tournament was
6 held at Lake Tahoe.

7 34. In addition to her regular responsibilities, Plaintiff was scheduled by
8 Harrah's, her employer, to be on the Penthouse floor each and every night during the event
9 serving a concierge-like function in addition to her other duties.

10 35. When Plaintiff questioned this, Plaintiff was told by her superiors that
11 because of her level of expertise, reputation for excellent service, and knowledge of the
12 Penthouse facilities and Staff she was selected to serve the important and celebrity guests,
13 on that floor.
14

15 36. Plaintiff felt honored to be considered for such a position and reported each
16 day to carry out her other duties and those duties.

17 37. Prior to the event starting, Plaintiff was introduced, by one of the Butlers, to
18 Ben Roethlisberger, an NFL Quarterback for the Pittsburgh Steelers who had checked in
19 on or about July 5, 2008.
20

21 38. Plaintiff knew that Roethlisberger was a celebrity, but was not very familiar
22 with his football career.
23

24 39. Plaintiff was, also, familiar with Roethlisberger's name from hearing
25 Harrah's President, John Koster, bring his name up on several occasions.
26

27 40. Plaintiff also learned that John Koster was paired with Ben
28

1 Roethlisberger for the golf event.

2 41. Plaintiff learned that Koster boasted about what good friends he and
3 Roethlisberger were on many occasions.

4 42. There were other very high profile guests on the floor, including, among
5 others, Michael Jordan and Charles Barkley.

6 43. On or about July 2008, Roethlisberger came to Plaintiff's desk and struck up
7 a conversation. There was a discussion of fly-fishing and of the fact that Plaintiff was an
8 avid fly fisherman.

9 44. It was Plaintiff's responsibility to serve all of these guests on the floor, in
10 addition to her role as an Executive Casino Host.

11 45. Hyder, the Harrah's Director of Security, commented to Plaintiff on how
12 pleasant Roethlisberger was, and said that Koster was a huge fan of Roethlisberger.

13 46. Hyder emphasized how important it was for Plaintiff to ensure that
14 Roethlisberger had a nice trip.

15 47. On the evening of Friday, July 11, 2008, Plaintiff, after being on the casino
16 floor in the high limit area, taking care of one of her guests, returned to her post on the
17 Penthouse floor, at approximately 10 PM. The same day she was advised by Hyder that
18 Alvaro Brito was being terminated because of a complaint by Roethlisberger.

19 48. On Friday, July 11th, 2008, Plaintiff was at her post, on the seventeenth
20 floor, in the Penthouse area, at approximately ten o' clock p.m. in the evening.

21 49. Ben Roethlisberger returned to his room with a young woman who Plaintiff
22 had not seen before. She left his room approximately 20 minutes later.

1 50. Roethlisberger walked the young woman to the elevator. He then stopped by
2 Plaintiff's desk and said hello. He talked with other staff for approximately 20 minutes.

3 51. As Roethlisberger left, he mentioned to Plaintiff that his television sound
4 system was not working.

5 52. Plaintiff offered to have someone from engineering fix it.

6 53. Roethlisberger said that he would call about it later.

7 54. A few minutes later, Ben Roethlisberger's name came up on Plaintiff's
8 telephone, at her desk.

9 55. Plaintiff answered the phone, and Roethlisberger said that his television was
10 still broken and asked if Plaintiff could fix it.

11 56. Plaintiff said that she would have someone look at it and he responded by
12 asking if Plaintiff would come and "take a quick look".

13 57. Plaintiff called her boss, Jennifer Trinkaus, the VP of Casino Marketing, but
14 Trinkaus did not answer her phone. Plaintiff later learned that Trinkaus was allegedly in
15 the nightclub.

16 58. Plaintiff also called engineering, but was unable to reach anyone.

17 59. Roethlisberger called, again, asking when Plaintiff was going to fix the
18 television.

19 60. Mindful of Hyder's earlier admonition that Koster wanted to be sure that
20 Roethlisberger had a good trip, and because of Roethlisberger's insistence, Plaintiff
21 decided to check the TV herself for him.

22 61. Plaintiff knocked on Roethlisberger's door, the last door on the left at the
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1 end of the hallway on the 17th floor and Roethlisberger opened it. He was wearing athletic
2 shorts and a t- shirt.

3
4 62. Plaintiff entered the room. The room was a mess.

5 63. Plaintiff asked which television it was that was malfunctioning.

6 64. Roethlisberger led her to the adjacent room and pointed at the bedroom
7 television.

8 65. Plaintiff picked up the remote controls and attempted to identify and solve
9 the alleged problem or problems.

10 66. The equipment functioned properly and Plaintiff could see no problem with
11 the television or with the sound system and so informed Roethlisberger.

12 67. As Plaintiff attempted to leave the room, Roethlisberger stood in front of
13 Plaintiff, blocking her way.

14 68. Roethlisberger was and is a very large person, reportedly Six Foot Five
15 inches tall and approximately two hundred and fifty pounds, much larger than Ms.
16 McNulty.

17 69. Roethlisberger grabbed Plaintiff and started to kiss her.

18 70. Plaintiff was shocked and stunned that this previously friendly man, that
19 appeared to be a gentleman in her previous contacts with him, was suddenly preventing her
20 from leaving, was assaulting her and battering her.

21 71. Plaintiff communicated her objection and lack of consent.

22 72. Ms. McNulty feared that since he was a football player he could or
23 would physically harm her if she attempted to fight him.

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1 73. Plaintiff protested several times, but instead of stopping, Roethlisberger
2 began fondling Plaintiff through her dress and between her legs.

3
4 74. Roethlisberger held her against her will and physically moved Plaintiff and
5 pushed her onto his bed.

6 75. Despite additional protests, he kept going, pulled her underpants off and
7 proceeded to penetrate her.

8 76. Plaintiff continued to protest "You don't want to do this."

9
10 77. Panicked, Plaintiff begged, "Please don't do this" and, also, hoping it
11 would cause him to stop, attempted to stop him by saying, "I am not on any type of birth
12 control."

13 78. Roethlisberger continued to penetrate Plaintiff, against her will, stating,
14 "Don't worry. I will pull out."

15 79. Roethlisberger did "pull out" and ejaculated on Plaintiff's stomach.

16 80. After that, Roethlisberger allowed Plaintiff to get off of the bed.

17
18 81. Very shocked and upset, Plaintiff got up and immediately went into the
19 bathroom, where she splashed water on her face, and tried to pull herself together.

20 82. When Plaintiff came out of the bathroom, Roethlisberger asked, "There are
21 cameras on this room, aren't there?" Plaintiff said, "Yes. There are cameras everywhere."

22
23 83. Roethlisberger, acting very worried, sternly instructed her, "If anyone asks
24 you, you fixed my television." "You fixed my television." "Now go!" he said sternly.

25 84. Plaintiff, terrified left the room, embarrassed, stunned and confused.

26 Plaintiff left the building, shortly thereafter, and went to her truck, in the parking
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1 lot, and drove away, very distraught, and crying.

2 85. The next day, Plaintiff reported to work and attempted to do her job, but still
3 very shocked and distressed, sobbing and crying hysterically, Plaintiff called Guy Hyder,
4 the Director of Security, and told him what happened.
5

6 86. Hyder dismissed Plaintiff's distress and hysteria and responded by saying
7 that Plaintiff was "over reacting" and that "most girls would feel lucky to get to have sex
8 with someone like Ben Roethlisberger." Hyder further stated to Plaintiff that "Koster would
9 suck his [Roethlisberger's] _____."
10

11 87. Plaintiff was shocked, emotionally upset, and confused at the attitude of
12 Hyder and realized that Hyder, Harrah's Chief of Security, would not assist her, would not
13 do anything adverse to Roethlisberger, and became concerned that she would be made the
14 villain rather than Roethlisberger and that her job would be jeopardized.
15

16 88. From the day of the assault, Plaintiff became increasingly anxious, afraid,
17 and depressed.

18 89. Plaintiff lost sleep, became very wary of others, and did not know who to
19 turn to after she had reported this very traumatic incident to Hyder, Director of Security,
20 assuming that the assault would be investigated by him, and that the appropriate
21 executives would be notified.
22

23 90. Hyder, apparently unwilling to displease Koster or make the least inquiry,
24 particularly of Defendant Roethlisberger, did not do his job of investigating the assault
25 and, on information and belief, of properly reporting it as was his duty.

26 91. Plaintiff now suspects, however, that Koster was informed of the assault and
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1 battery by Hyder, of her report of it and of his, Hyder's, cruel dismissal of the incident
2 intended to discourage any report by Plaintiff.

3
4 92. Hyder failed to interview any witnesses, failed to preserve evidence and
5 failed to follow company policy by not investigating the matter, particularly Roethlisberger,
6 and, apparently fearful of reprisals by Koster or at his direction, failed to investigate and
7 follow up on this sexual assault.

8
9 93. Plaintiff was told by Monroe that President Koster was very good friends
10 with Roethlisberger and that she ever led on that she knew him, Roethlisberger, or had any
11 personal conversations with him, Koster, "would personally fire you for starting rumors
12 about his personal life."

13 94. "John will fire you, Andrea. That's how he is."

14 95. Plaintiff fell into a depression which deepened over time.

15 96. Plaintiff felt that she had nobody to turn to at Harrah's and was afraid of the
16 consequences of reporting it to police authorities since it was obvious to her that Harrah's
17 and its personnel, particularly Hyder and Koster, would side with and support
18 Roethlisberger, the celebrity friend of Koster.

19
20 97. Plaintiff told herself that she just had to try to deal with the trauma on her
21 own and get through Labor Day so she could go home and seek refuge with her family.
22 Immediately following Labor Day, Plaintiff fell apart, stopped eating, could not sleep,
23 suffered a nervous breakdown, and became so anxious and depressed that her self-care
24 went dramatically downhill.

25
26 98. Plaintiff flew back to Lake Tahoe in bad shape, and was checked into the
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28

1 Reno Renown Hospital on or about September 25th where she was diagnosed with major
2 depression and anxiety.

3
4 99. Plaintiff had to be fed intravenously because of the lack of fluids. The
5 emergency room doctors felt that Plaintiff was very anxious and so depressed that she
6 should be admitted to West Hills Hospital, a Reno facility that treated anxiety and
7 depression. She was admitted on or about September 26th, 2008.

8
9 100. While at West Hills, Plaintiff was heavily drugged, and was frightened and
10 traumatized by the inmates, Plaintiff was hospitalized there until on or about October 2nd
11 2008.

12 101. Upon discharge from West Hills, Plaintiff was put on several anti -
13 depressants, anti-anxiety drugs and on sleep medication.

14 102. Plaintiff filed for a Family Medical Leave Act (FMLA) leave and was
15 released from work.

16 103. Plaintiff did not recover and, therefore, was, then, sent to a care facility in
17 Napa Valley.

18
19 104. Plaintiff was admitted to St. Helena Hospital, on or about October 14th,
20 2008 and was released on or about October 30th 2008. Plaintiff was diagnosed with
21 extreme Post Traumatic Stress Disorder, Anxiety, and Major Depression.

22 105. After leaving St. Helena Hospital, Plaintiff returned to her home at Lake
23 Tahoe.

24
25 106. Upon discharge treatment program for anxiety and depression on an
26 outpatient basis .

1 107. A few weeks later, on or about November 19th, 2008, Plaintiff was admitted
2 to a Carson City Hospital, again, for major depression and anxiety and was in grave health
3 due to not eating and sleeping.
4

5 108. During the fall of 2008, while Plaintiff was hospitalized, Hyder entered into
6 contact with Plaintiff's parents, stating falsely that the sole reason for Plaintiff's
7 breakdown was the cessation of Plaintiff's e-mail correspondence with a young man, and
8 omitting all reference to the sexual assault that had taken place on July 11, 2008.
9

10 109. Hyder proceeded to gain the confidence of the McNulty family and
11 pretended to be there as a friend for Plaintiff when, in fact, he was engaged in surveillance
12 of her and her progress for his own purposes and/or for those of Koster and the Harrah's
13 Defendants.
14

15 110. Hyder, pretending to be a friend, persuading Plaintiff, that he should have a
16 key to her home.
17

18 111. Believing his stated purpose or purposes for having the key, Plaintiff
19 provided him with a key. Subsequently, Hyder and one or more other agents of Defendants
20 entered her home, and, on information belief, proceeded to examine and remove and alter
21 the content of and the file or files and information on her laptop computer, invading her
22 privacy, which was done without her knowledge and understanding, and was done for the
23 purpose of providing the information to Harrah's and for their own purposes.
24

25 112. Near the end of her leave time, Plaintiff, at risk of losing her job, and,
26 particularly, concerned about the possible loss of her medical benefits and the assistance
27 she so badly needed, returned to work during the Thanksgiving weekend, 2008.
28

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1 113. Plaintiff was thirty pounds lighter and her spirit was broken.

2 114. Plaintiff attempted to work as hard as she could, but the setting was a
3 terrifying reminder of the sexual assault and battery.
4

5 115. Plaintiff was called by a "pit boss" at Harvey's, and went there to assist
6 with a guest.

7 116. The pit boss, during that visit to the pit, asked Plaintiff, "What happened?
8 Why were you in the hospital?"
9

10 117. Plaintiff became tearful and excused herself from the pit indicating to the pit
11 boss that she couldn't talk about it.

12 118. The next day, Plaintiff's Manager, Rod Campbell, called her at home and
13 asked her to come to his office. She went to work early and was faced with Debbie Neall,
14 the Manager of Employee Relations.

15 119. Plaintiff received her first ever written documentation, for allegedly
16 "losing control of her emotions in the workplace and making the employees
17 uncomfortable." It was a "negative work history" and the first ever negative documentation
18 Plaintiff had received from Harrah's.
19

20 120. At the meeting, Defendant Neall did not ask for her version of what
21 happened, nor did they ask any questions.
22

23 121. Plaintiff, under the circumstances, refused to sign the write up.

24 122. Because Plaintiff became very upset concerning this treatment, Debbie
25 Neall took Plaintiff to the in-house clinic. The doctor said that Plaintiff was not well
26 enough to work. He opined that she had been through a lot.
27

1 123. Plaintiff was put on another leave until March 3rd, 2008.

2 124. A few weeks later, Plaintiff was admitted to Barton Memorial Hospital at
3 Lake Tahoe. Plaintiff was devastated and was very afraid of being retaliated against if she
4 spoke out about what had happened.
5

6 125. Defendants have admitted, through their Counsel, that in late December
7 2008 or early January 2009, Koster, Monroe and Human Resources Director Mike
8 Rosenow were informed by Hyder of Plaintiff's claim of sexual assault by Ben
9 Roethlisberger and yet, upon meeting, made the decision to conduct no investigation.
10

11 126. After returning to work on Friday, March 6, 2009, Plaintiff was shown the
12 negative work history from Harrah's based on the incident which had occurred in
13 November of 2008, and was told that any further episodes would result in termination.
14

15 127. Plaintiff spoke with the physician at Harrah's, told him what had occurred,
16 explained that she was always very afraid to say anything, and that was why she had
17 suffered so much over the past few months.

18 128. The doctor said he would call Debbie Neall, the Manager of Employee
19 Relations, concerning the matter. He reportedly cryptically inquired of Neall as to what
20 Neall would do if an employee was assaulted or attacked by a guest while at work.
21

22 129. Neall reportedly responded that Harrah's would have no responsibility in
23 reporting it but would encourage the employee to make a report with Douglas County
24 Sheriffs Department.

25 130. The doctor asked Plaintiff for permission to discuss the incident with
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1 Debbie Neall which Plaintiff gave to him, but, upon later inquiry by Plaintiff, the doctor
2 said he had changed his mind about contacting employee relations and Debbie Neall, and
3 suggested that Plaintiff would be better off not pursuing the matter further with Harrah's.
4

5 131. The Dr. released Plaintiff back to work on March 3rd, 2009. That return date
6 was delayed by Neall.

7 132. Because of the lapse in the FMLA and the new start date, Plaintiff's health
8 insurance was canceled.

9 133. Plaintiff went to Guy Hyder's office and asked to speak to him, privately.

10 134. Plaintiff was tearful and said, do you remember that day that I called you
11 about the incident with Ben Roethlisberger, referring to the day after the sexual assault?
12 Hyder said, Yes.

13 135. Plaintiff then said, I want you to know that that is specifically why I have
14 fallen apart over the last few months. I was very scared and I didn't know what to do.
15

16 136. Plaintiff stated that her problems arose directly out of the sexual assault by
17 Roethlisberger. Hyder said, "I figured that was what was wrong, but I thought it was just
18 like a date rape thing." Hyder then said that he knew that Plaintiff was very distraught and
19 upset, but that he thought that she had regretted sleeping with him and became upset.
20

21 137. Plaintiff, again, very upset by Hyder's comments, and disappointed with this
22 statement, left Hyder's office in tears.

23 138. Plaintiff was told about an incident wherein the Director of Player
24 Development, Bryan Casuscelli, Ben Roethlisberger's Executive Casino Host, was seen
25 removing and throwing away Plaintiff's business cards that were in the Butler pantry.
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1 139. When confronted by one of the butlers, Casuscelli reportedly stated that
2 she (Plaintiff) may be coming back (to work), but she would never be a Host again.
3

4 140. Plaintiff complained to Supervisor Rod Campbell, but Campbell stated that
5 he wasn't comfortable speaking to Casuscelli about it because he was hoping to be
6 considered for the promotion to Vice President of Casino Marketing and speaking to
7 Casuscelli might rock the boat.

8 141. A few days afterward, Plaintiff had a meeting with Mike Rosenow, Vice
9 President of Human Resources for Harrah's, and told him that she was very concerned
10 with the write up, with Bryan Casuscelli's remarks regarding the business cards, and the
11 overall level of support, or lack thereof that she was receiving from Harrah's.
12

13 142. She explained that she had been through a considerable amount of anguish
14 and that she was trying her very best to return to work and be an asset to the company.
15

16 143. Rosenow noted that John Koster was aware of the Defendant Bryan
17 Casuscelli's actions and agreed that it was in very poor taste and would not be tolerated.
18 Mike Rosenow assured Plaintiff that there would be written statements taken from the
19 Butlers who were present.

20 144. Rosenow asked Plaintiff to continue staying focused on her work.

21 145. On or about the early part of March, 2009, Plaintiff, during the course of her
22 work shift, was in the company of guests, and introduced the guest to Koster, Regional
23 President.
24

25 146. Notwithstanding Koster's awareness of Plaintiff's claim that she had been
26 sexually assaulted by Ben Roethlisberger, Koster proceeded to engage in a laudatory
27
28

1 description of his "close friendship" with Ben Roethlisberger.

2 147. Koster knew of the devastating impact this would have on Plaintiff, but
3 chose, nonetheless, to send a message to Plaintiff and to intimidate her.
4

5 148. On April 2, 2009, counsel retained by Plaintiff sent a letter to Gary
6 Loveman, Chairman, Chief Executive Officer and Pres. of Harrah's Entertainment, Tom
7 Jenkins, President, Western Division and William Buffalo, Vice President and Deputy
8 General Counsel, informing them of the assault that had taken place on July 11, 2008, and
9 of the acts of ratification, condonation and approval by the executives at Harrah's Tahoe,
10 and of the acts and failure to act of Hyder, requesting a full and independent investigation
11 of the entire matter and of those acts.
12

13 149. On April 13, 2009, Loveman, Jenkins and Buffalo responded through their
14 attorney, by a letter which not only ratified, approved and condoned the acts of Harrah's
15 executives, but which sought to retaliate against Plaintiff through character assassination.
16

17 150. The attorney, among other things, set forth false and scurrilous claims by
18 Defendant Stacy Dingman who had combined with Hyder and others in this defamation
19 and attacks on Plaintiff.

20 151. Dingman has been known to be a close personal friend of and to be
21 personally involved with Hyder.
22

23 152. The Defendants sought by the letter and the accusations in it to intimidate
24 and dissuade Plaintiff and her counsel from pursuing this matter against any of the
25 Defendants. Plaintiff believes that no full and independent investigation was conducted by
26 Harrah's Corporate.
27

1 153. Plaintiff requested access to the electronic surveillance and other phone and
2 radio and electronic communications for the purpose of confirming facts relating to these
3 claims. That access has been denied.
4

5 154. Nonetheless, demand has been made that all evidence in this matter be
6 preserved, including, but not limited to all information regarding Ben Roethlisberger
7 during his stay at Harrah's.
8

9 155. Subsequent to receipt of Plaintiff's Counsel's letters in April of 2009, the
10 Harrah's entities, acting through their agents, have engaged in retaliation against Plaintiff
11 for asserting her right to an investigation of the sexual assault and for bringing to light the
12 Harrah's cover up of that assault. That retaliation ultimately led to her constructive
13 discharge from her employment in November of 2009.
14

15 156. In April or May of 2009 Plaintiff spoke to Dave Monroe about a concern
16 that she had for her personal safety and he said that she could park on a floor the parking
17 garage. Plaintiff let her boss Rod Campbell know and then the next day she got called into
18 a meeting.
19

20 157. Plaintiff went to the office at 3:00 pm and was asked to sit down at a table
21 with chairs. Xenia and Rod Campbell were present. Xenia shut the door.
22

23 158. Xenia said, "Rod called me on Saturday and was concerned that you
24 approached him that afternoon and asked if you could park on the ground floor of the
25 garage because you are scared. When I hear something like this it concerns me because first
26 and foremost this sounds concerning, and secondly, what I do for one employee I need to
27
28

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1 consider doing it for another to be fair and consistent. Do you want to tell me why you are
2 scared?"

3
4 159. Plaintiff said politely, making direct eye contact with both of them, "I
5 appreciate that, however, I am not sure if you are aware but I have retained legal counsel
6 and I am under strict orders not to have conversations regarding my safety with anyone."

7 160. Xenia continued to press questions asking why Plaintiff was afraid and was
8 it someone on her shift. Plaintiff said to them directly, again, "I am not able to discuss any
9 details regarding the incident that occurred last summer during the Celebrity Golf."

10 161. Rod Campbell then asked Plaintiff if the onset of the event and booking the
11 event was causing her any anxiety or fear. Plaintiff said, "I can't discuss this with you".
12 Xenia then tried to press again and asked, "You are scared because something happened to
13 you? Is it someone here on property?" Plaintiff said nothing. Xenia said, "No?" Plaintiff
14 explained to her again that she could not discuss it.
15

16 162. Xenia then said, "I did hear that something happened a while ago but it was
17 before I took over the department so it never had anything to do with me. I was not
18 involved in those conversations. When an employee is in the midst of pending litigation
19 with our company, everything is kept very confidential. However, if you are asking for
20 special parking, I have to go to HR and report it especially if you have a concern for your
21 safety".
22

23 163. Plaintiff said, "I was not asking for permission. Dave Monroe and I were
24 talking the other day and I explained to him that I had a concern about my personal safety
25 at work walking to my truck at night and asked if I could park my truck on the A floor. He
26
27
28

1 said it was fine so long as I gave Anna, the Director of Hotel, and Rod a heads up so they
2 would not think that I thought I was entitled to park there. As a courtesy, I let Rod know
3 that I spoke to Dave and Anna about it and it was okay with her". Xenia then said, "Dave
4 approved that?! He can't do that!" Plaintiff said, "The Harrah's attorneys can direct any
5 questions to my attorneys if necessary. I can't discuss it with you .. Please understand that."

6
7 164. Notwithstanding the Defendants' full awareness of the assault which took
8 place on July 11, 2008, they, again, invited Defendant Roethlisberger to be the guest of
9 Harrah's during the 2009 Celebrity Golf Tournament, while insisting that Plaintiff, to the
10 detriment of her client relations, and her professional future, take a paid leave for a two-
11 week period of time to accommodate her assailant. Defendants did so with full knowledge
12 of the emotional impact such action would have on Plaintiff.

13
14 165. On Friday, July 3rd, 2009, Plaintiff was contacted on her cell phone by Xenia
15 Wunderlich, Vice President of Casino Operations, and asked to come down to Debbie
16 Neall's office for a moment in Human Resources. She went down and was met by Xenia
17 and a man that she had never seen before. Xenia introduced Matt Krystofniak and he shook
18 Plaintiff's hand and led Plaintiff into Debbie Neal's office. Debbie Neal was not in her
19 office. Krystofniak shut the door and Plaintiff was offered a seat. Xenia said that Plaintiff
20 looked nice and she said, "Pretty dress." Plaintiff sat down. Krystofniak asked Plaintiff,
21 "Before we get started, do you have any recording devices on you?" Plaintiff said, "No I do
22 not." He said, "That is a standard question." Plaintiff asked, "Do you have any recording
23 devices turned on?" He stuttered and said, "No I don't. I don't own any." He introduced
24 himself as the Reno Director of Human Resources and said that he was filling in on an.

1 interim basis. He was holding a piece of paper.

2 166. Krystofniak said that he and Xenia wanted to bring Plaintiff in to discuss
3 Celebrity Golf. He said that it was coming up and that it was their understanding that it
4 was a sensitive time because of an incident that occurred last year.
5

6 167. Krystofniak said that he was presenting Plaintiff with a letter to read. He
7 said that Xenia had not read the letter nor did she know what it was about. He said that he
8 had to tell Xenia some details but that she didn't read the letter. Xenia said that she had not
9 seen the letter.
10

11 168. Plaintiff read the letter and became tearful. Xenia said, "Oh my gosh, she's
12 shaking. Get her some Kleenex. My gosh you are shaking." She handed me a Kleenex. As
13 Plaintiff was reading the letter Matt said, "Obviously based on your reaction of the letter
14 this is upsetting to you." Plaintiff asked him if she could finish reading the letter. He
15 apologized for interrupting. He appeared very nervous. When Plaintiff was finished
16 reading the letter she sat quietly tearful and wiped the tears from her eyes with a Kleenex
17

18 169. Krystofniak said, "Obviously this is upsetting to you. We are concerned
19 about your safety and your well being and we want to give you the opportunity to take a
20 fully paid leave of absence during the Celebrity Golf Event to keep you from being in an
21 emotionally upsetting situation. We don't want you to face someone that makes you feel
22 unsafe. Xenia said, "Yes, we care about your safety."
23

24 170. Krystofniak said that the leave would begin on July 7th and Plaintiff would
25 return after the event. Xenia said that Plaintiff could take a few extra days off if necessary.
26 Matt said that it would not impact Plaintiff's bonus or any coded guests that were attending
27
28

1 the event. Xenia said that June Arjellano would oversee Plaintiff's guests in her absence
2 because he did not have a lot to do.

3
4 171. Krystofniak said that "I just love employees. I am a really sensitive guy. I
5 care about employees." He said, "Xenia hasn't read the letter but if you would like to
6 discuss the incident that occurred with me I will have my cell phone on me 24 hours each
7 day. My wife will not be happy about it, but I will keep the phone on my night stand."

8
9 172. Plaintiff informed Krystofniak that she could not discuss the incident. "My
10 attorneys are available if you would like to speak to them." Krystofniak said that he was
11 not permitted to speak to Plaintiff's attorney and that he could only speak to Plaintiff
12 directly.

13
14 173. Krystofniak said he understood that but said that he was available to discuss
15 it. He also said that if he, or if Xenia discussed this with anyone that they could face
16 termination. He asked Plaintiff to "keep the meeting among the three of us." He said
17 repeatedly that "This meeting does not go outside this room."

18
19 174. He asked Plaintiff if she had any questions. Plaintiff asked, "Does anyone
20 else know that you are having this meeting with me?" He looked very nervous and said, "I
21 don't know."

22
23 175. Plaintiff asked, "Who wrote this letter?" Krystofniak said, "I did."
24 Plaintiff asked, "Does John Koster know that you wrote this letter?" He said, "I don't know
25 if John Koster knows or not." Xenia said she did not read the letter. Plaintiff asked, again,
26 "So who wrote this letter?" Krystofniak said, "Harrah's General Counsel wrote it."
27 Plaintiff said, "Thank you. May I have your card?"
28

1 176. Krystofniak was so nervous he did not know what his own phone number
2 was when he tried to write it on the card. He asked Xenia what his phone number was. He
3 looked extremely nervous and stressed out.
4

5 177. Further, Dave Monroe attempted to dissuade Plaintiff from pursuing her
6 claims by urging Plaintiff to not trust attorneys in general and her attorneys in particular
7 while pretending to be her friend.
8

9 178. Plaintiff filed suit on July 17, 2009 in the Second Judicial District Court for
10 the State of Nevada against Roethlisberger and Koster, Hyder, Monroe, Casuscelli, Neall
11 and Dingman. Thereafter, Defendants' efforts to intimidate, silence and retaliate against
12 Plaintiff intensified.
13

14 179. Plaintiff's department was ordered to move into the old Finance space in a
15 cubicle setting, facilitating the observation of and monitoring of the activities of Plaintiff.
16 This decision was reportedly made by Xenia Wunderlich, Vice President of Casino
17 Operations, claiming that it would improve the morale of the department.
18

19 180. Plaintiff's desk was placed the closest to the manager, Jesse Hughes', desk
20 and there was rumored to be a camera above the pod of cubicles. Nearly everyone could
21 overhear Plaintiff on the telephone, making it very awkward for her to acknowledge any
22 guests or employees that were showing support for Plaintiff over the phone. It also
23 prevented employees from stopping by her office to have private conversations.
24

25 181. One employee opposed this setting because he couldn't concentrate on his
26 work in that setting so he moved to make his calls from an office elsewhere. He was
27 reprimanded for not doing his work in this office.
28

182. In September, October and November of 2009, Harrah's booked 3 Junket flights from Pittsburgh, the hometown of Plaintiff's assailant Ben Roethlisberger. The guests were very vocal on the casino floor, yelling "Go Big Ben!" when Plaintiff walked across the casino floor. Dealers told Plaintiff that they were constantly being asked by these guests where Plaintiff was and what she looked like. They said things like, "I want to stay in the suite that she said he did this to her in." "I want to see the room where it happened." Some said things like, "We came all the way out here to hunt her down."

183. Harrahs allowed such to occur knowing the impact it would have on Plaintiff.

184. Further, Plaintiff received an abusive call from a guest demanding that Plaintiff go to his room and bring "three hookers". When Plaintiff reported this to her boss Jesse Hughes, Director of Casino Marketing, Defendants did nothing to admonish the guest, knowing the impact it would have on Plaintiff.

185. Further, Defendants took action to suppress any statements by employees of support for Plaintiff. A dealer in the high limit room at Harrah's told Plaintiff that a guest asked her about Plaintiff and the dealer had said, "She is such a good person." Later, the dealer she told Plaintiff that she had been pulled aside by her manager and told that she was not to ever say that Plaintiff was a nice person. The dealer was instructed that regardless of the context of a conversation, she was not to ever say anything but "I have no comment." The dealer tried to explain that she was Plaintiff's friend, but the Pit Boss did not want to hear it.

186. After Plaintiff reported the incident to Xenia Wunderlich, and after Plaintiff

1 was assured that that should not happen; the dealer later got back to Plaintiff and told her
2 that Xenia went to her and instructed her to continue saying, "No comment," even though
3 Xenia told Plaintiff that that was wrong.
4

5 187. After Plaintiff's co-employee and former roommate Wyle Cordes gave an
6 Affidavit in support of Plaintiff's allegations, he was called in to Koster's office and
7 interrogated at length.

8 188. Plaintiff was harassed in a variety of ways. For example, she got pulled into
9 the office of VP of HR Matt Krystofiak and Xenia Wunderlich right next to John Koster's
10 office and was reprimanded for sending an email to assist an important customer. Xenia
11 told Plaintiff how disappointed she was in Plaintiff for sending it and not going to her for
12 help. They went on and on about how they were there to support Plaintiff and how Plaintiff
13 chose not to ask them for their help. Krystofiak went on to blame Plaintiff for not using his
14 cell phone number that he offered up. Xenia went on about what a great company Harrah's
15 was. They were taking copious notes, writing down everything that Plaintiff said. Plaintiff
16 said that Harrah's had demonstrated no concern for her or her well being, whatsoever.
17

18 189. Harrah's sent out a company wide email asking that Plaintiff's records be
19 preserved. The memo's were posted everywhere. They did not ask that John Koster's, Guy
20 Hyder's, Debbie Neall's, Bryan Casuscelli's, or Stacy Dingman's records be preserved.
21

22 190. At one point, a claim was made by Defendants that a large volume of
23 company records had disappeared from the computer system. Plaintiff does not know if
24 these included records of Koster, Hyder, Neall, Casuscelli or Dingman.
25

26 191. Employees were informed that they were subject to termination if they
27
28

1 spoke to anyone about the Roethlisberger incident.

2
3 192. Security employees were instructed to write down the names of the people
4 that talked to Plaintiff or offered her support at work. They were to report the names of the
5 employees, what department they work in, and where the conversation took place.

6 193. Plaintiff was told by several employees that she am being watched very
7 carefully.

8
9 194. Jesse Hughes (Casino Marketing Manager) brought Plaintiff into his office
10 and said, 'Mary, I need you to be a witness.' Mary Kuncie is a Supervisor and she did not
11 have any say over Plaintiff, and if anything, Plaintiff's position was far superior to hers, so
12 Plaintiff had no idea why she was sitting in on the conversation. Hughes asked Plaintiff if
13 she was late for work. Plaintiff said that she was not and that she was in fact early for
14 work. He said that he had heard from someone that Plaintiff was late. When Plaintiff asked
15 him who had said she was late, he said he didn't know.

16
17 195. John Koster had a door put on the executives offices that required persons
18 to be buzzed in. This was the first time that a set up had been made like this.

19 196. Plaintiff was required, along with other employees, to sign an employment
20 contract with termination being the penalty for failure to sign.

21 197. John Koster shunned Plaintiff every time she saw him. Koster glared at
22 Plaintiff. Koster shunned Plaintiff at an employee staff meeting, saying hello to everyone
23 but her. He shunned her on the casino floor while walking with Dave Monroe. He shunned
24 her in the cafeteria while sitting with Dave Monroe and the CFO Jonathan Halkyard.

25
26 198. When Casino Host Angie Antonetti left the company Plaintiff received her
27
28

1 list of players, however they took out the top 100 and gave them to other people (mostly
2 Bryan Casuscelli). Whenever someone else had left the department, their list was given to
3 another host in its entirety. Plaintiff was left with a poor list of players.
4

5 199. Fear was instilled in employees. When Plaintiff talked to employees, they
6 would say things like, "I need to go. I'm scared that I am going to get fired from talking to
7 you."
8

9 200. On July 21st, 2009, Harrah's issued a Media Policy that stated: "Harrah's
10 Corporate Communications Department is responsible for the preparation and release of
11 any information, statement, or news stories concerning the Company, employees, guests or
12 its subsidiaries or brands. Local press releases may be prepared and distributed by the
13 designated property public relations representative only. No employee shall answer any
14 questions, express any opinions, confirm or deny any fact, supply any documentation
15 (including photos) or make any statement concerning the Company, employees, or guests
16 to any news media representative. All calls, questions or inquiries from members of the
17 press or media must be referred to the Communications Department, specifically John
18 Packer who can be reached through the Hotel Operator. No employee may supply the press
19 or media with any information related to the Company, its employees, or guests without the
20 expressed authorization of the Communications Department. This includes, but is not
21 limited to, posting company information on Social Network / Social Media sites (eg. Text
22 Messages, Twitter, Facebook and/or MySpace, etc) and sending e-mails via Outlook and/or
23 Blackberry or similar devices to any media or outside sources. The only acceptable
24 response to media inquiries should be, 'I have no comment. However, you can contact our
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1 Communications Department, specifically John Packer at 775-586-6541. Any violations to
2 this policy or other company policies may result in disciplinary action, up to and including
3 separation of employment.”
4

5 201. An excessive volume of Steelers games were on at the televisions
6 throughout the casino. For example, on Sunday the 4th of October, 2009 Plaintiff's
7 schedule was changed to 11- 8. Usually Plaintiff was off at 7:00 p.m.. Plaintiff had to go to
8 the high limit pit to print a comp slip for a guest. When Plaintiff walked on to the casino
9 floor she noticed that every tv was tuned into a Steelers game. As Plaintiff was fumbling to
10 print the slip the game was playing, Ben Roethlisberger was on screen and people were
11 shouting at the game. The employees were staring at Plaintiff as if to get a reaction and
12 Plaintiff was fumbling and making several errors to print the comp because she was so
13 nervous and upset that he was right there. Plaintiff believes she made 5 errors in printing
14 the comp slip incorrectly because of the distraction and she was fighting back tears. The
15 game was on every tv she could see, on all tvs in the bar, on a huge movie screen at the
16 center of the casino, on every panel in the high limit areas, in the hotel lobby and when she
17 left work it was on in the valet. Plaintiff believes that they were instructed to put the game
18 on.
19
20
21

22 202. Further, when ESPN "Outside the Lines" ran a special on Plaintiff,
23 Defendants tuned the Casino's televisions into that program, broadcasting throughout the
24 Casino intimate facts about Plaintiff as well as a barrage of negative comments made
25 against Plaintiff.
26
27
28

1 203. In October of 2009, Harrah's took action against Plaintiff in an attempt to
2 falsely put her in line for impending termination, based on a false allegation that Plaintiff
3 had made a comment which had offended her co-worker Rick Lemley. This conduct on the
4 part of Harrah's, like the hostile treatment to which Plaintiff had been subjected during the
5 prior months, was intended by Harrah's to force Plaintiff to leave her employment.
6

7 204. On Tuesday, October 26th, 2009 Plaintiff was called to a meeting in the
8 Executive Offices at approximately 3:00 p.m.. Xenia Wunderlich had called the meeting
9 the day before. Plaintiff went to the meeting and was brought into Matt Krystofiak's office,
10 the VP of Human Resources and he called Xenia Wunderlich in from her office. Plaintiff
11 sat down at the table in front of his desk.
12

13 205. Krystofiak called Xenia to his office and the two of them sat down.
14 Krystofiak said, "We conducted an investigation on the allegations regarding the
15 comment that you made to your co-worker Rick Lemley. It sounds like based on our last
16 discussion you had done some soul searching and realized that you should not me making
17 comments such as that in the workplace. Based on our investigation and a 'preponderance
18 of evidence,' we will be presenting you with a documented work history entry."
19

20 206. Xenia said, "Unfortunately, Andrea, because you had already received a
21 written Negative Work History, this will put you on a Final Negative Work History."
22

23 207. Plaintiff said, "I should never have received a Negative Work History in the
24 first place. The allegations that they presented to me when I returned to work are
25 completely false. There are witnesses to prove that- and like this incident- it did not
26 happen." Krystofiak said, "Unfortunately I wasn't in charge back then so I can't really do
27
28

1. something about that one.”

2. 208. Plaintiff said, “Well, my attorneys have repeatedly raised the issue with the
3. Harrah’s attorneys.”

4. 209. Krystofiak said, “Well, I will investigate it for you.” He took note. “Today
5. we are here to discuss the incident that occurred on Sunday.”

6. 210. Plaintiff said, “I should not have received that write up in March and I
7. should not be receiving this one now. This is yet another ploy to get me to leave.”

8. 211. Krystofiak said, “That is not true.”

9. 212. Plaintiff said, “Yes it is. This company has been on a witch hunt with me
10. ever since this incident occurred in July.”

11. 213. Xenia chimed in and said, “Andrea this is how I would have reacted to any
12. employee. You are not being treated any differently. We had an employee come to us and
13. say that you made them uncomfortable and so we need to act.”

14. 214. Plaintiff said, “Well, I am not comfortable with how Guy Hyder responded
15. to when I went to him for help. Is there a write up in his file? Does he have a Final
16. Negative in his file? I am not happy with how John Koster has conducted himself. Is there
17. a write up in his file?”

18. 215. They tried to bring Plaintiff back to the incident that occurred on Sunday.

19. 216. Plaintiff said, “It did not happen. You have both been directed to do this to
20. get me out of here.”

21. 217. Krystofiak said, “Are you saying that I am doing this?”

22. 218. Plaintiff said, “Matt I don’t know you. But I believe that you are on a witch
23. hunt.”

1 hunt to do everything you can to get me off this property."

2 219. He wrote the words, "Witch hunt" on his notepad. He said, "We don't
3 discuss your case here. No one knows about this conversation either. This is between
4 Xenia and you and me. No one else."

5 220. Plaintiff told Krystofiak that she had handled this with more class than
6 anyone else. Plaintiff said that she always personally acknowledged John Koster and the
7 others when she saw them. Plaintiff said that Koster shunned her each and every time.
8

9 221. Krystofiak said that he would investigate. Plaintiff said, "Everytime he
10 shuns me I write it down, the date, the time, the place, and who noticed."

11 222. Krystofiak kept circling back to the discussion about Sunday and he said
12 that based on a preponderance of evidence Plaintiff would be held accountable. Plaintiff
13 looked at both of them and said, "He [Plaintiff's co-employee] did not say that he was
14 uncomfortable. He did not ask me to stop."
15

16 223. Krystofiak said, "Well, based on the witness (whom he could not identify)
17 he did."
18

19 224. Plaintiff asked them, "Who knows about this conversation? Who instructed
20 you to have this conversation with me?" He said nothing. Plaintiff asked him again, "Who
21 knows about this conversation?"
22

23 225. Krystofiak stared at Plaintiff and said nothing. Xenia said, "I have not
24 discussed this with anyone."

25 226. Plaintiff asked Krystofiak again who instructed him to do this and/or whom
26 he discussed it with and he said, "My counsel."
27
28

1 227. Plaintiff said, "Your counsel? I thought you said that this was between you
2 and Xenia and me."

3 228. He said, "You are suing my boss and one of my employees, Andrea."

4 229. Plaintiff said, "You lied. Give me the name of who you had this
5 conversation with."

6 230. He said, "Gerald Ensign (sp)." Plaintiff wrote his name down and asked
7 Krystofiak to make her a copy.

8 231. Krystofiak left the room to make a copy and Xenia said, "Andrea, are you
9 okay?"

10 232. Plaintiff looked at her and said tearfully, "There are not words to describe
11 how I feel."

12 233. She said, "I know. This is terrible."

13 234. Plaintiff said, "Everything....everything I have worked for is gone. Those
14 good ol' days with you and Gillian (former VP) and Don and L...they are gone. This
15 company and that guy destroyed my life....destroyed my family's name".

16 235. She said, "Andrea, everything is going to be okay."

17 236. Plaintiff said, "Just please tell the truth. Please."

18 237. Xenia said, "Andrea...there is nothing...no job that will cause me to
19 compromise my own integrity." She said, "I will, Andrea."

20 238. Krystofiak came back to the room and handed Plaintiff a copy of the work
21 history. Plaintiff said, "Matt, if you are going to continue meeting with me like this, I ask
22 that you please tell me the truth. Just tell the truth. Don't lie to me."

1 239. Xenia said that Plaintiff could go home for the day if she wanted to. Plaintiff
2 agreed and got up and left.

3
4 240. At 8:45 a.m. the following day Plaintiff pulled out of her driveway on
5 Centerville Lane in Gardnerville behind a black Chevy Avalanche. The truck was slightly
6 raised off the ground with very large tires and shiny rims. It was John Koster. Plaintiff
7 could see that he saw her in the rear view mirror. He immediately began to speed.
8 Following the speed limit Plaintiff was behind him giving him two car lengths of room
9 behind his vehicle. At the end of Centerville Lane at the stop sign he pulled onto Foothill
10 Rd. The speed limit there is 50 miles per hour. He sped up to a speed of 75 miles per hour
11 and passed 3 cars on a double solid line (no passing zone). The road is very narrow and
12 dangerous to pass on. There was a Mercedes in front of Plaintiff. It was black with the
13 plates "2ZEPHYR". The car swerved a bit as John Koster dangerously passed the cars.

14
15 241. Plaintiff went into work and called Xenia Wunderlich, who was at home.

16
17 242. Plaintiff asked if she could meet with her and she said that she was at home
18 but could meet with Plaintiff later in the day. Plaintiff said, "I want to speak to you
19 regarding my resignation." Xenia said, "Oh no." She said that she would get to work and
20 call Plaintiff. A few minutes later she said that she would meet Plaintiff at ten thirty a.m..

21
22 243. Plaintiff went to the office and John Koster and Dave Monroe were standing
23 in front of Koster's administrative assistant's desk, Cindy Peak. Koster saw Plaintiff and
24 immediately grabbed ahold of Monroe and said, "Randy...Randy." He was referring to
25 Randy Conroy, the VP of Finance who was sitting in the office. Randy was at his desk.
26 Koster grabbed Monroe by the arm and brought him in the office and they shut the door.

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1 244. Plaintiff walked into Xenia's office and she said that Matt Krystofiak was
2 there. Krystofiak was sitting down at the desk and he looked very ashamed, very down.
3 He was looking down at the ground. Plaintiff sat down and said, "I do not want to discuss
4 this. I have been advised by my attorneys that they will be sending a written letter to
5 Harrah's and its attorneys by Friday with my formal resignation." Xenia said, "Of course. I
6 understand."
7

8 245. They had Plaintiff sign a resignation letter stating that she was voluntarily
9 resigning. Xenia pointed to the comments section and she said, "You don't have to fill
10 anything out there." Plaintiff signed it and Xenia said that they would pay Plaintiff for the
11 two weeks but that it was normal for them to let her go immediately because that it was
12 customary for most hosts.
13

14 246. Xenia said that Plaintiff would receive her check in the mail. She said that
15 Plaintiff would be 86'd from all Harrah's properties for 1 year. She said that she would
16 walk Plaintiff to her office to collect her belongings. Xenia got up to make Plaintiff a copy
17 of the resignation form. While sitting there, Plaintiff stared at Krystofiak and he said,
18 "How are you holding up?" Plaintiff said, "I'm fine, thank you."
19

20 247. Xenia returned and asked if Plaintiff had any questions. Plaintiff said no.

21 248. Xenia started walking Plaintiff to her office. They were alone in front of the
22 elevator on the Convention Center level. Plaintiff was a little tearful and Xenia said,
23 "Andrea, can I just say something?"
24

25 249. Plaintiff said, "yes."

26 250. Xenia said, "Can I just give you a hug?"
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28

537 RALSTON STREET
POST OFFICE BOX 3689
RENO, NEVADA 89505
TELEPHONE (775) 323-7790 - FAX (775) 323-5454

1 251. Plaintiff said, "Ok."

2 252. Xenia said, with tearful eyes, "I just want you to know that I pray for you
3 and your family everyday. This is just awful what has happened to you. I want you to know
4 that I am here for you. I know this is hard but I know you are going to be okay. You will do
5 wonderful things in your life. I thought so highly of you way back when and my opinion of
6 you has never changed. I'm very proud of you. All of this is awful."

7 253. Plaintiff said, "I never wanted my career to end this way."

8 254. Xenia said, "I am so glad that I got to be the person to walk you out of here.
9 You walk out of here with your head held high. You be strong. I hope that when this is
10 over you and I can be friends. I hope that I will get to spend time with you again and talk."

11 255. Plaintiff thanked her and asked her to, "Please be strong. It is going to be a
12 very difficult fight. I know I can do it. But please tell the truth."

13 256. She said, "This job is not worth it. I will."

14 257. When they went to Plaintiff's office cubicle Plaintiff started to pack while
15 Xenia tried very hard to distract the others from what was going on. Plaintiff carefully
16 packed her belongings in a box. She had a stack of cards that she had received from guests
17 and employees throughout the last few months. Xenia looked at the cards and Plaintiff said,
18 "Am I allowed to take these?" Xenia said that she had been instructed to not let Plaintiff
19 take any notes from guests or employees. Plaintiff said, "They are addressed to me." Xenia
20 said, "I'm sorry. I've been instructed to not let you take them." Plaintiff set them down and
21 they were the only thing left behind that was personal.

22 258. On the top of Plaintiff's desk Plaintiff had one picture. It was a picture of a
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1 girl on a horse. Xenia said, "What a beautiful picture. Who is that?" Plaintiff said, "It's
2 Jaycee Dugard. I love it because she has been through such trauma but if you look closely
3 she still has a twinkle in her eye. I put it there so that when I had a hard time at work I just
4 look at her on that horse and it gives me strength." Xenia appeared very choked up.
5 Plaintiff took the picture down and put it in the box.
6

7 259. Xenia asked Plaintiff if she wanted to say goodbye to anyone. Plaintiff said,
8 "What I would like is a graceful exit. No thank you." She agreed.
9

10 260. When they headed toward Plaintiff's car Xenia said that she was proud. She
11 again encouraged Plaintiff to be strong and she said, "You walk out of here proud and with
12 your head held high, Andrea."

13 261. She said, "I remember that I have had some tribulations in my life and they
14 made me a better person. They made me stronger."

15 262. Plaintiff said, "If you think back to where I was in a hospital last year,
16 feeling helpless, I am stronger now."
17

18 263. She said, "You have come such a long way. We have our Andrea back
19 again."

20 264. Plaintiff said to Xenia, "No matter what the outcome of this, I will walk
21 away knowing that I stood my ground, that I did my very best, and that my life will go on."
22

23 265. She said, "Yes you have. You are going to do wonderful things in this
24 world, Andrea. I know you will. You have so much experience You are smart. I know you
25 will be okay. Just continue to be strong."

26 266. As they approached Plaintiff's truck Xenia gave Plaintiff a hug and said, "I
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1 want you to take care of yourself. Everything will be okay. I want you to be strong and I
2 will be there for you."

3 267. Plaintiff looked at her with tears and could see that she had tears in her eyes.
4
5 Plaintiff said, "I want you to be strong too. This isn't going to be easy. But I need you to be
6 strong too. You have a lot of people counting on you."

7 268. She said, "I will. I promise."

8 269. They said, "Goodbye."
9

10 CLAIMS AGAINST DEFENDANTS

11 FIRST CLAIM FOR RELIEF

12 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

13 270. Plaintiff incorporates by reference each and every allegation in the preceding
14 paragraphs as if set forth, herein, verbatim.

15 271. Defendants, by and through the conduct of their managerial agents, engaged
16 in conduct intended to cover up the sexual assault which had taken place on July 11, 2008.

17 272. Defendants, by and through the conduct of their managerial agents, intended
18 to and did inflict fear and humiliation on Plaintiff in order to silence her and to dissuade
19 her from pursuing her legal rights.

20 273. Defendants, by and through the conduct of their managerial agents, intended
21 to and did inflict fear and humiliation on Plaintiff in order to punish and retaliate against
22 her for having pursued her legal rights.

23 274. Defendants' conduct was extreme and outrageous with the intent of causing
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1 emotional distress to Plaintiff.

2 275. Plaintiff suffered severe and extreme emotional distress as the actual and
3 proximate result of Defendants' conduct.

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5 276. As a result, Plaintiff suffered damages thereby, for which she is entitled to
6 recover.

7 277. Defendants' acts were intentional and malicious, entitling Plaintiff to
8 recovery of Punitive Damages.

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11 **SECOND CLAIM FOR RELIEF**

12 **INVASION OF PRIVACY**

13 278. Plaintiff incorporates by reference each and every allegation in the preceding
14 paragraphs as if set forth herein, verbatim.

15 279. Plaintiff had an actual expectation of seclusion, solitude, and privacy which
16 was objectively reasonable.

17 280. Defendants, through the conduct of their agents, intentionally intruded upon
18 the exclusion, solitude, and privacy of the Plaintiff.

19 281. Defendants, through the conduct of their agents, by pretense and fraud and
20 misrepresentation gathered information regarding the private and personal life of Plaintiff
21 and regarding her medical condition or conditions.

22 282. The intrusions were such that each one was and would be highly offensive
23 to Plaintiff and would be highly offensive to a reasonable person.

24 283. Defendants, through the conduct of their agents, entered Plaintiff's home
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1 and gathered information, including, without limitation, information from Plaintiff's
2 computer and other private information including medical information.

3 284. Plaintiff alleges, on information and belief, that Defendants, through their
4 agents, copied, deleted, alter, and destroyed, the private and personal information of
5 Plaintiff on the computer and sought to and did inspect it to determine the state of mind of
6 Plaintiff, the information possessed by Plaintiff and other information related to the sexual
7 assault and the conduct of and involvement of others after the July 11, 2009 incident.

8 285. Defendants publicly disclosed private facts of Plaintiff to which she had a
9 right of privacy.

10 286. These disclosures and each of them was and would be offensive and
11 objectionable to a reasonable person of ordinary sensibilities.

12 287. Defendants' conduct was extreme and outrageous with the intent of and
13 reckless disregard for causing emotional distress to Plaintiff

14 288. Plaintiff suffered severe and extreme emotional distress as the actual and
15 proximate result of Defendants' conduct.

16 289. As a result, Plaintiff suffered damages thereby, for which she is entitled to
17 recover.

18 290. Defendants' acts were intentional and malicious, entitling Plaintiff to
19 recovery of Punitive Damages.

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25 **THIRD CLAIM FOR RELIEF**

26 **TRESPASS**

1 291. Plaintiff incorporates by reference each and every allegation in the preceding.
2 paragraphs as if set forth herein, verbatim.

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4 292. Plaintiff had an actual expectation of seclusion, solitude, and privacy on and
5 in her home which was objectively reasonable.

6 293. Defendants, by and through their agents Hyder and Masters, intentionally
7 intruded upon the seclusion, solitude, and privacy of the Plaintiff by entering into her
8 home and on her land.

9 294. Defendants and each of them trespassed upon and throughout her home and
10 gathered information regarding her medical conditions, and regarding other private matters
11 and information and/or aided, counseled and encouraged others, to trespass for their
12 benefit.

13
14 295. The intrusions and trespasses were such that each one was and would be
15 highly offensive to a reasonable person.

16 296. Defendants' conduct was extreme and outrageous and was with the intent of
17 and reckless disregard for causing emotional distress to Plaintiff

18 297. Plaintiff was caused to suffer and suffered severe and extreme emotional
19 distress, as the actual and proximate result of Defendants' conduct.

20 298. As a result, Plaintiff suffered damages thereby, for which she is entitled to
21 recover.

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23 299. Defendants' acts were intentional and malicious, entitling Plaintiff to
24 recovery of Punitive Damages.
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FOURTH CLAIM FOR RELIEF

DEFAMATION AND TRADE DEFAMATION

300. Plaintiff incorporates by reference each and every allegation in the preceding paragraphs as if set forth herein, verbatim.

301. Defendants, through their agents, made false and defamatory statements regarding the character of and credibility of Plaintiff in general and in particular regarding the assault, battery and false imprisonment of Plaintiff by Ben Roethlisberger.

302. Defendants, through their agents, made false and defamatory statements regarding Plaintiff's illness.

303. Defendants, through their agents, made false and defamatory statements regarding Plaintiff's relationships with various men.

304. Defendants, through their agents, made false and defamatory statements regarding Plaintiff about her honesty, integrity and credibility and regarding her stability and/or suitability for employment.

305. Defendants imputed criminal conduct to Plaintiff.

306. Defendants imputed sexual promiscuity to Plaintiff.

307. Defendants imputed a lack of fitness for her trade, business, and profession.

308. Defendants imputed serious sexual misconduct to Plaintiff.

309. Defendants made unprivileged publications and communications of the foregoing statements.

310. Defendants knew or upon reasonable inquiry and investigation would have learned that their defamatory statements were false and were, at the very least, negligent in

1 making the statements and publications.

2 311. Plaintiff sustained substantial actual and presumed damages to her person
3 and profession as the direct and indirect consequences and result of those acts and
4 statements, for which damages she is entitled to recover.
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6 312. Defendants' conduct was intentional and malicious, entitling Plaintiff to
7 recovery of Punitive Damages.
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9 FIFTH CLAIM FOR RELIEF

10 TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY

11 313. Plaintiff incorporates by reference each and every allegation in the preceding
12 paragraphs as if set forth herein, verbatim.
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14 314. Defendants, through their agents, created a hostile work environment so
15 extreme that no reasonable employee would be expected to remain in his or her position of
16 employment.
17

18 315. Defendants, through their agents, created a hostile work environment so
19 extreme that Plaintiff could not remain in her employment.

20 316. Defendants' conduct, in creating a hostile work environment in which
21 Plaintiff could not be expected to remain, engaged in the constructive discharge of
22 Plaintiff from her employment.
23

24 317. Defendants' conduct, in creating a hostile work environment in which
25 Plaintiff could not be expected to remain and in thereby constructively discharging
26 Plaintiff, acted with the intent to punish and retaliate against Plaintiff for having exercised
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1 her legal rights to seek redress for the sexual assault which occurred on July 8, 2008 and
2 for the ensuing cover up engaged in by Defendants.

3 318. The right of citizens to seek legal redress for wrongs committed against
4 them is protected by strong and compelling public policy in the State of Nevada.

5 319. The right of citizens to be free from sexual assault is equally protected by
6 strong and compelling public policy in the State of Nevada.

7 320. The right of citizens to complain of a sexual assault is equally protected by
8 strong and compelling public policy in the State of Nevada.

9 321. The right of citizens to be free from retaliation for having complained of
10 sexual assault is equally protected by strong and compelling public policy in the State of
11 Nevada.

12 322. The right of citizens to be free from retaliation for complaining of a cover
13 up of a sexual assault is equally protected by strong and compelling public policy in the
14 State of Nevada.

15 323. Defendants' conduct in constructively discharging Plaintiff from her
16 employment was in violation of each of the aforesaid strong and compelling public policies
17 of the State of Nevada..

18 324. As a proximate result of Defendants' conduct, Plaintiff has suffered
19 damages including but not limited to loss of income, extreme emotional distress, and
20 damage to her personal and professional reputation, for which she is entitled to recover
21 against Defendants.
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325. Defendants' conduct was intentional and malicious, entitling Plaintiff to recovery of Punitive Damages.

WHEREFORE, Plaintiff prays for relief as follows:

1. For damages in an amount in excess of \$10,000;
2. For special and consequential damages in an amount to be proven at trial;
3. For prejudgment and post-judgment interest on all sums awarded, according to proof at the maximum legal rate;
4. For punitive and exemplary damages to Plaintiff in an amount in excess of \$10,000;
5. For costs of suit, interest, and reasonable attorney's fees; and,
6. For such other relief as the Court deems just and proper.

AFFIRMATION

The undersigned Counsel does hereby affirm that the foregoing document does not contain the social security number of any person.

DATED this 8th day of July, 2010.

DUNLAP & LAXALT

Monique Laxalt

Calvin R.X. Dunlap, Esq.
Monique Laxalt, Esq.
Attorneys for Plaintiff.